G. P. N. & P.—658,414—21-11-29

G.F. 71 & 72.

1934

Department of Excise.

OFFICE_____

STATION Madras.

R No. 300 alk

Dated 20-2-1934.

Seen by G

	Date	Initial
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Indexed		
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To whom sent

Pages in the file

DESPATCHED
2. FEB 1934

(SUBJECT.)

Trees taso - T.S.No. 64, Mulloor - Vellipi. Taluk.
Lease 1933-83 - remarking of trees -
for refusal of trees

Stamp Cell 25 2-11

DESPATCH 25 NOV

OFFICE 24 MAIL

To,

The Commissioner of Excise,
M A D R A S.

Humble petition of Muloor Kudpa Poojary, renter of T.S.No.64 of Muloor village, Udipi Taluk for the year 1932-33.

The petitioner begs permission to submit the following facts for favour of your kind consideration.

The petitioner was the renter of Muloor toddy sho during the year 1932-33. In the second half year commencing from 1st April 1933, the petitioner applied for marking of 50 (fifty) cocoanut trees in Bada village for the supply of toddy to the said shop. For these 50 trees there were in all four tappers. The Sub Inspector of the range marked 37 (thirty-seven) trees for three tappers and refused to mark the remaining 13 trees for the 4th tapper by name Siddu Poojary on the ground that one Venkatramana Bhatta who had purchased the plot of lan where the trees are situated objected to the marking of trees. The trees were and are actually in the possessio of the said Siddu Poojary. These indicated trees were marked for this tapper during the previous half year. Though the said Venkatramana Bhatta poses himself to be the purchaser of the plot of land in question he has not up to this date realised the possession of this property. Apart from all these considerations the petitioner was not at all aware of the alleged transactions referred to above. The petitioner represented all these facts to the Circle Inspector and prayed for the early marking of the trees. Again petitioner submitted a petition to the Assistant Commissioner through the Inspector on 9-4- with a view to get the trees marked. But the petitione did not get a favourable either from the Inspector or from the Assistant Commissioner. The Assistant Co missioner in his proceedings No.S7/33 dated 4-4-

ordered "the petitioner must decide the question of ownership in a court of law". By the time the petitioner received the above order about two months of the lease had elapsed and the petitioner therefore was not able to secure a fresh set of trees in the same village for the purpose of marking. Petitioner ultimately applied for refund of tree-tax paid on behalf of coconut trees by way of 1st and 2nd instalments together with the penalty of rupee one collected from the petitioner for a few days delay in the payment of the 2nd instalment of tree-tax. For this petition, the humble petitioner received the order ------ L.Dis.4696/33 dated 15-10-1933 of the Collector of South Kanara, on 2-11-1933 through the Sub Inspector of Kaup Range. A copy of the same order is enclosed for your Honour's kind perusal. It will be seen therefrom, that the Collector has dismissed the petition of the petitioner. The petitioner is much aggrieved by this order of the Collector refusing to sanction the refund paid by the petitioner for 13 trees not marked for the petitioner.

P 3 C f

P 3 G f

The petitioner therefore prays that Your Honour may be pleased to redress his grievance by ordering the grant of refund.

U D I P I,
12-11-1933.

PETITIONER.

Copy submitted to the Deputy Commissioner, Southern Division, Coimbotore.

37

Copy of Collector's order L. Dis.4696/33 dated 15-10-33.

Tree tax - Udipi Taluk - Mulur village - T.S.No.64 -

Refund of tree-tax of Rs.58-8-0 and penalty of Re.1/- Orders passed.

e.31-10-33.

Refusal by a tree owner to mark the trees cannot be admitted as a sufficient ground to entitle the renter to a refund of the tree tax paid by him, because he is expected to have obtained the tree owners consent to the marking of the trees before he puts in his T.T application. The petition is therefore dismissed.

(Sd) P. Mahabaleshwaraya
Huzur Sheristedar.

M.R.Ry. G. D. Duraisingh. Avl., B.A.,
Inspector of Excise, Udipi Circle, Udipi.
Dated 29-10-1933.

Copy to the renter of T.S.No.64 for information.

(Sd) x X X x
Inspector.
30-10-33.

To - Kudpa Poojary, renter for 1932-33 for T.S.No.64, through Sub Inspector, Kaup Range.

Forwarded to the renter of T.S.No.64 of Mulur for the year 1932-1933.

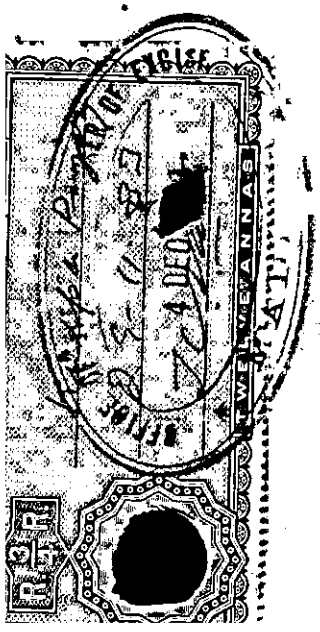
The Commissioner of Excise,

hepauk,

Madras.

ABKARI
8254

Petition of Muloor Kudpa Pujari,
Post Uchila, Udipi Taluk.
Dated 29-11-1933.



Honoured Sir,

With reference to your ~~xx~~ honour's endorsement C.R.No. 7865 abk. dated 24-11-1933, the petitioner herewith submits court fee stamp of the value of Rs 1-12- 0.

Petitioner.

Urgent

DRAFT FOR APPROVAL.

R/Cn
J.15
Bgk

C.R.No. 7865a/33

From Read appeal petn of 12.11.1933
from Muloor Kudipra Poojary.

Subject.

Treestax - refunds - appeal -
from Tax collector of T.S.No.64 -
- Muloor, Kudipe taluk.

REF:-

Forwarded to Tax Collector of S. Kanara for submitting the connected records. He may if he wishes add any remarks which appear to be called for on the petition.

Cso
6/12/33

Sm
6.12.33.

To,
Tax Collector of S. Kanara
(with a petn)
& enclo.

L.Dis.6629-33. South Kanara Collector's Office,
Mangalore, 19th December 1933.

From

E. M. Gawne, Esquire, I.C.S.,
Collector of South Kanara.

To

The Secretary to the
Commissioner of Excise,
M a d r a s.

8662

Sir,

Abkari - Tree-tax - refund - appeal from the Excise renter of T.S.No.64 - Muloor - Udipi Taluk - Report submitted

******

Reference:- Commissioner's Reference C.R.No.7865-Abk.: dated 6.12.1933.

******

I submit the records of my office, L.Dis.4696-33, dated 15.10.1933. The Assistant Commissioner of Excise, Cannanore, states that the original records connected with the marking of the trees have been submitted to the Deputy Commissioner of Excise, Southern Division along with his report on the renter's appeal to you against my order declining to sanction a refund in this case. The petitioner's contention in the appeal, that he was not able to secure a fresh set of trees for marking in the village is reported to be not true by the Inspector of Excise, Udipi. I have no other remarks to offer. The petition and the enclosure are herewith resubmitted.

Your obedient servant,

Bmadhavarao 19.XII.33
For Collector.

M.D'S.19/12.

19.12.33.

S/13 Ms S

C.F. 16—23,81,136 17-9-31. (6)

DRAFT FOR APPROVAL.

Enclosures.

Despatch No.

When given to fair copying

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When despatched P/51-26.f

Office.

C Register No. 7865, dated 9/33.

From Revds appeal petn Dt 12-11-1933 from Muthoor Kandapa Poojary - Udipi.

Subject.

Trees — refunds - appeal from the orders of T.S.No. 64

To ~~the Asst Commr~~ Muthoor.

THE Udipi taluk. - 1932-33.

Ref,

~~Sir~~ With reference to the appeal petn received above (Copy sent by the petnr to the D.C.) the collr of S. Kanara reports that the original records connected with the non-marking of the trees have been submitted by the A.C. W. Coast Sub Div to the D.C. who C is requested to forward the relevant records to this office with his remarks on ~~and to report the circumstances under which the trees could not be marked & whether~~ as it is the claim for refunds of T.T is justified. Dy 10.1.34.

P 6C.f

Dandeli 11.1.34.

To,

The D.C. S. Dn.

C 9/1/34 MM WR

8

E x c i s e DEPARTMENT

In reply, please quote number, date and short title.

Received 16-1-34 *Registered* .....

From (Name) C. B. Beadnell Esquire I.S.C.,

(Designation) Deputy Commissioner of Excise,

Post Box....., (Station) Southern Division, Coimbatore.

Telegraphic Address.....

To The Commissioner of Excise,

Chepauk, M a d r a s.

R.B.No. 23/34 , *dated* 13th January 19 34.

Sir,

ENCLOSURES .....
1 file
Ex 290
SPARE COPIES .....

Tree tax - refund - appeal from renter of T.S. 64 Muloor - Udipi taluk - 1932-33.

Ref:- Your Ref.C.R.No.7865 Abkari dated 10-1-34. P 76

I submit herewith my office file L.Dis. P.T. 163/33 containing the Assistant Commissioner's report on the appeal and my orders thereon informing the petitioner that his request for refund of T.T. cannot be granted. The relevant records sent by the Assistant Commissioner have already been returned to him and I am requesting the Asst. Commissioner to submit them direct to you. A reference to the Assistant Commissioner's report D.2253/33 dated 9-12-33 contained in my file P.T.163/33 will show that the petitioner's claim for refund of T.T. is not reasonable.

14-1-34
For Deputy Commissioner.

Cy.1

Copy to Asst. Commissioner West Coast Sub Division for submission of the connected records referred to by the Asst. Commissioner in his D.2253/33 dated 9-12-33 direct to the Commissioner.

W/14-1.

C.F. [illegible](3).

In reply, please quote number, date and short title.

[illegible] DEPARTMENT.

Received 25-1-34 *Registered*

From (Name) A. A. CONNOR ESQUIRE,

(Designation) Assistant Commissioner of Excise, West Coast Sub Division,

Post Box ..... , (Station) CANNANORE.

Telegraphic Address 'Acex'

To

The Secretary to the Commissioner of Excise,

Trivandrum.

Memo. No. 101/34 , *dated* 22nd January *1934*

Sir,

Tree tax - Refund appeal petition from renter [illegible] Udipi Taluk - certain records - submitted.

Enclosures nil

Registered

Book-bag

Spare Copies (N)

Southern Division Deputy Commissioner's [illegible] 22/34 dated 13-1-34.
Commissioner's [illegible].7865/Abkari dated 10-1-34.

The records noted in the margin are submitted as ordered by the Deputy Commissioner, Southern Division.

p86f

[illegible] File B.2263/33 D/9-12-33 of [illegible] Office, (2)

A. A. Connor
22.1.34

C.F. 16—23,81,136—17-9-31 (6)

DRAFT FOR APPROVAL.

Enclosures.

Despatch No.

When given to fair copying

Fair-copied by

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When despatched

Office.

Register No. 7865, dated 1/32

From

Subject

Trees case – request – refusal – review of T.S.No. 64 Mulovoor – Wolipe Taluk – leases 1932-33

To

THE – approach.

Ref.

Her attention of the A.C. West Coast is drawn to his letter D.dis.2253/33 dt 9.12.33 to the D.C on the above subject.

According to the orders in para 2 of G.P.R.No. 1915 dtd dt 22-8-1931 a request of the tax was to be granted when the marking of trees applied for is not permitted by the dept irrespective irrespective of whether the applicant substitutes fresh trees or not. In the present case the despn through the originally licensed the trees subsequently refused to permit the marking unless

The applicant settled the dispute with the alleged claimant to the ownership of the trees. ~~He~~ either did not think it ~~necessary~~ proper or was unable to do. It is a case of disputed ownership and the officers are not expected in such cases ~~of disputed ownership~~ to adjudicate on the respective claims of the disputants. The A.C is requested to report why he recommended to the Collr a refund of refunds with ref to the orders in C.P.R.No. 1915 dtd 22-8-1931 when those orders ~~specifically~~ authorised the grant of refunds in such cases.

but have merely to grant marking pending settlement of the dispute by the Civil Court in O.S No 472 of 1925 of dt. 28.2.29

b.r.7-10 (C)

b.r.7-10

Co
31/1/34

To.

The A.C. Nellore
with certain records
Copy to the D.C.S. Dte

(X) A.C's D.Dis. 2253/33 dt 9-12-33
D. 879/33 dt 24.5.33
D. 1892/33 dt 4-11-33
D 1994/33 dt 22.10-33
R.P. 71472/33 of Nellore
T.T.7 L.No. 4/1315. & T.T. 3. No 8
of Nellore

C.F. 32.

In reply, please quote number, date and short title.*

12

EXCISE DEPARTMENT.

Received ..... *Registered* .....

From (Name) A. A. CONNOR ESQUIRE,

(Designation) Assistant Commissioner of Excise, West Coast Sub Division,

Post Box ....., (Station) CANNANORE.

Telegraphic Address 'Acex'

To

The Secretary to the Commissioner of Excise,

Triplicane, M A D R A S .

R.B.R. *No.* 68/34 ....., *dated* 4th February *19* 34.

Sir,

Tree Tax - refund - refusal - renter of T.S.64 - Muloor - Udipi Taluk - Lease 1932-33 - Appeal.

----oOo----

Commissioner's Reference C.R.No.7865/Abkari dated 31-1-1934.

In resubmitting herewith all the enclosures received with the above reference I beg to invite your attention to page 27 of South Kanara District Gazette Excise Supplement dated 25-7-32 - condition 4(2), which requires that the T.T.3 should be countersigned by the owner or person in possession of the trees. The T.T.3 in question does not contain the countersignature of the tree owner. Item 3(a) of the T.T.3 only gives the name of the person to whom the licences etc., are to be handed over. According to the petitioner Thimma Poojari is the owner - please see para 6 of the petition-in this office D.No.879/33 dated 4-5-33, and one Venkitarama Bhat also claims ownership of the trees - vide Udipi Inspector R.F.71/33 dated 10-3-33 - enclosed. In the absence of the counter-signature of either of the above, I concluded that the trees were applied for without the consent of the tree owner and therefore recommended a refusal of refund.

6/2/34

For Assistant Commissioner.

Copy to Deputy Commissioner, Southern Division.

MVK/6-2.

ENCLOSURES:-

by registered post.

SPARE COPIES.

A.C's
No.2253/33 D/9-12-33
" 879/33 D/4-5-33
" 1892/33 D/4-11-33
" 1994/33 D/29-10-33

Udipi circle
R.F.71 & 72/33
T.T.7 No.4/1315
T.T.3 No.B/12.

Treestaxes – refunds – rentes of

T.S.No. 64, Mulbour – Wolipe taluk

– appeal.

C.R.No. 7865 of/34

Please see the appeal from the rentes

pp 1-2 C f of T.S.No. 64, Mulbour, Wolipe taluk for the leases 1932-33 and the reports of the

p. 6 C f Collr and D.C thereon. The question is

4 p 8 C f in regards to the refunds of T.T paid on 13 trees applied for by the petnr. The trees were duly licensed by the Insptr but on objection from one Venkataramana Bhattar who claimed the ownership of

p 6 (x) 9 of these trees the Insptr subsequently refused the marking of all the 13 trees. The petitioner contends that the trees were

1-2 C f in ~~contains~~ possession of one Kapper Siddoo Poojari who had given the consent and that the same trees were marked for the same kapper in the previous half year. The village Patail also states (Patrimdent of Siddapoojari)

(d) that through one Thimma Poojari, had nominally mortgaged the lands to Venkataramana Bhattar, the kapper Siddoo Poojari contends to be the owner & permanent resident of the plot in question. Whatever it may be, in cases of disputed ownership our officers are not-

required to adjudicate on the respective
claims of the disputants. The question as
to whether the writer was at fault in the present case
not having obtained permission from
the rightful owner does not therefore arise.
The Inspr has merely to refuse the marking
in such cases until the dispute is settled ~~and may not be forced~~.
This has been done in the present case by the Insp
It is therefore a case of refusal of marking
by the dept and the petitioner is eligible
for refund with reference to the orders
in para 20 C. P. R. No. 1915 dtd 22-8-1931.
Substitution of fresh trees is not necessary
and cannot be insisted on for purposes of
refund in such cases and there is no
provision under which we can ~~refund~~ legally
refuse the refund ~~legally~~. The orders
whether refunds may be allowed.

Sd
27.1.34

Co
28-1-34.

See p. 7.

Mm What does the AC mean
by not recommending refund
in view of CP 1915 of 22.8.31
in which it was laid down by me that
refund should be granted in such
cases. He seems to have misread
the Coll.

25
29.1.34

Sir,

Draft below for approl Sd.

C Note Continued.

Please see this office
p 10-1-34 ref of 31-1-34 to the A.C. West Coast
Sub Div and his reply thereto on p. 12 C of
He refers to rule 4(2) of the Tree Lopping
rules and states that as the tree lopping
p 5 G application did not contain the
Countersignature of either of the disputant
(i.e Thimma Poojari and Venkatramanna
Bhatta) he concluded that trees
were applied for without the Consent
of the tree owner and therefore recommended
a refusal of refund. But ~~the trees~~
were duly licensed by the Deputy Collector
the Deputy should not have done so
in the absence of the Countersignature of the
~~real~~ owner.

Cio
11-2-34.

p 1 (4)

The PT's application on p 5 G
was put in by the latter and
according to rule 4 (2) of the PT rules
applications for PT licences in Shanwar
Dt should be Countersigned by the
tree owner or person in possession
of the trees. According to the police
(1) ~~Vidyapoojari~~ though Thimmapoojari
is the owner, Vidyapoojari ~~is~~
~~for~~ (the former's son-in-law) is
in possession of the trees. The PT offices

contains the person's explanation as the letter of the 15th inst & have the portion marked in blue pencil on p 5 ©.
The application was therefore in order.
The reasons applied for may be allowed.
For order.

16.2.34.

Yes
10/2

Yes & explain to Collr in AC exactly where & why the AC want as they show draft

PS
19 2 34

Sir,

Draft below for assent.

PW
20/2/34

No 21.2.34

JS
21.2.34.

17

C.F. 16—23,81,136—17-9-31. (6)

DRAFT FOR APPROVAL.

Enclosures.

Despatch No.

When given to fair copying

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When despatched

Office.

C Register No. 7865, dated 9/33

Read (1) appeal dt 12.11.33 from ~~From~~ Mudivan Kuruppu Pujari Wadipi.

(2) C Dis. 6629-33 dt 19.12.33 from The Collr of S. Kanara.

(3) R.B.R.No. 68/34 dt 6.2.34 from Subject. The A.C. to Coast.

(4) RB No 23/34 dt 13.1.34 from ~~the~~ Dy Conservator Trees Circle — T.S. No. 64 Mudivan — Wadipi taluk — leases 1932-3

To — non marking of trees —

The — appeal from orders for refunds.

— orders passed.

Proc.

According to the orders in para 2 of G.P.R.No. 1915 dated dt 22.8.1931 a refunds of trees tax was to be granted ~~in all cases~~ where the marking of trees applied for is not permitted by the dept inspection of whether the applicant substituted fresh trees or not. ~~In~~ In the present Case the inspn though not originally licensed the trees refused subsequently to permit the marking unless the applicant settled the dispute with the alleged Claimants to the ownership of

the trees which the revenue either did not think it proper or was unable to do. It was a case of disputed ownership and the officers are not expected in such cases to adjudicate on the respective claims of the disputants but have merely to refuse, as was done in the present case, the refund pending settlement of the dispute - Vide C.P.R. No. 272 of 25 dt. 28.2.25 ~~which was done in the present case by the Dy. Asst.~~

Dy A.C.W. Coast Sub Div to whom a reference was made as the subject refers to rule 4(2) of the Treasuring rules and states that as the T.T application did not contain the Countersignature of either the Tahsildar (either Thimma Poojari or Venkataramana Bhatta) ~~for the disputed land~~ the ownership of the trees, we concluded that trees had been applied for without the Consent of the Tahsildar and that therefore he was consequently recommended to the Collector to refund the refund of the refusal ~~It is however assumed from the records that the~~

Who was asked to report why he refused to refer a request of the Tahsildar when the orders in CP 1915 of 31 dt 22.8.31 authorise refunds in such cases

(G) ~~T.T. 3 applications were sent in by the vendor~~ - According to rule 4(2) of the T.T rules applications for T.T licences in S. Kanara dist should be countersigned by the tree owner or person in possession of the trees. According to the petn through Thimma Poojari is the owner, Siddu Poojari (the former's son in law) is in possession of the trees. The T.T application contains the signature of Siddu Poojari as the lessee of the trees. The T.T application was therefore in order according to the petn's contention. In the circumstances ~~then~~ G/L considers that the petitioner is entitled ~~to~~ a refund of the T.T paid on the 13 enumerated trees. The Collr is requested to arrange for the refund of the amount to the petn.

2/ The appellant is referred to the Collr of S. Kanara for orders on his appeal.

20.2.34

20.2.34

DESPATCHED
FEB 1934

To.
The Collr of S. Kanara
(with records
return by R.P.)

Copy to the D.C.S. Dn
(with reference by R.P.)

A.C.S. Coast
Appellant (for info only)

19.2.34. MRR